



Open Data Licensing

PRESENTED BY KATHLEEN LU

CC-BY 4.0

Overview

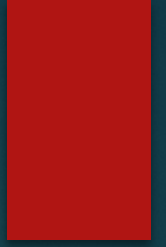
- ▶ Why Open Data?
- ▶ The Legal Landscape
 - ▶ Sui generis database rights
- ▶ Overview of Licenses
- ▶ Issues to Consider
 - ▶ When providing open data
 - ▶ When using open data
- ▶ ***Disclaimer: IAALBIANYL

Why Open Data?

What is Open Data?

- ▶ “Open means **anyone** can **freely access, use, modify, and share** for **any purpose** (subject, at most, to requirements that preserve provenance and openness).”
 - ▶ Open Knowledge Foundation: <http://opendefinition.org/>

Open Data vs Open Source



Similarities

- ▶ Framework
- ▶ Goals (maybe)

Differences

- ▶ Legal landscape
- ▶ Sources (who are the producers?)
- ▶ User pool

Should you use an open data license?

Pros

- ▶ Collaboration
- ▶ Transparency
- ▶ Kickstarts research
- ▶ **Enables reuse**

Cons

- ▶ Adds maintenance & expectations
- ▶ Loss of control
- ▶ **Enables reuse**



The Legal Landscape

Status of the Law – US Copyright

- ▶ The original selection and arrangement of facts is copyrightable
- ▶ Basic arrangements such as alphabetical, numerical, chronological, are not original – but choosing to include some items and not others can be
- ▶ Copying of facts is possible *without copying the selection or arrangement*
- ▶ Copying a small number of invented or “trap” items does not in of itself create infringement of the whole – *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 US 340, 344 (1991) (finding copied white pages not copyrightable while noting four “fictitious listings”)
- ▶ Digitizing something or putting it into a certain format doesn’t grant copyright over the original

Status of the Law – Int'l Copyright

- ▶ Other nations - Copyright protection varies
 - ▶ “sweat of the brow” theory
 - ▶ Creativity threshold

Status of the Law

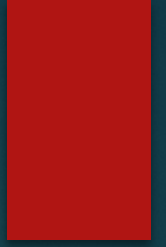
- ▶ US - No sui generis protection for databases
- ▶ Europe – Yes sui generis protection for databases
 - ▶ Lasts 15 years, much shorter than copyright
- ▶ UK – Due to Brexit, existing databases will keep protection for current term, but future...?
- ▶ A few other countries, e.g., Russia have sui generis protection for databases – mostly untested

Contract law is separate

- ▶ Contract law applies to the person who enters into the agreement and, if they represent a company, their company
- ▶ Similar issues to open source

Licenses Overview

Public Domain and Equivalent



- ▶ Creative Commons Zero
- ▶ Public Domain Dedication License (PDDL)
- ▶ Simple and easy to understand
- ▶ Completely disclaim control
- ▶ Data may end up anywhere

Attribution licenses

- ▶ Community Data License Agreement Permissive (CDLA-Permissive)
- ▶ CC-BY
- ▶ Open Data Common Attribution License
- ▶ Open Government Licence (OGL)
- ▶ If you absolutely need attribution, make the clause flexible
 - ▶ “...acknowledge the source of the Information in your product or application by including or linking to any attribution statement specified by the Information Provider(s) and, where possible, provide a link to this licence;”

Other limitations

- ▶ Academic-only
- ▶ CC-BY-NC – non-commercial
- ▶ CC-BY-ND – no derivatives
- ▶ Personal use only
- ▶ Government use only

Sharealike licenses

- ▶ Open Data Common Open Database License (ODbL)
- ▶ CC-BY-SA
- ▶ Community Data License Agreement Sharing (CDLA-Sharing)



Issues to Consider

PROVIDING OPEN DATA

Useability

- ▶ **To be useful, data often requires a lot of mixing, altering, and piecemeal delivery**
- ▶ Limiting clauses:
 - ▶ Require particular form of downstream attribution
 - ▶ Forbids resale/commercial use
 - ▶ Forbidding derivatives (e.g., CC-BY-ND)
- ▶ Compatibility with other licenses
 - ▶ Sharealike requirements

The Open Database License

- ▶ <https://opendatacommons.org/licenses/odbl/1-0/index.html>
- ▶ Includes a share-alike clause
 - ▶ What is a Derivative Database vs a Collective Database
 - ▶ Form of attribution
- ▶ Copyright page
- ▶ FAQ
- ▶ Seven sets of Community Guidelines
- ▶ License compatibility guide and letter template

*This is after the license change from CC-BY-SA!

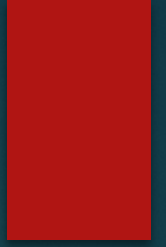
Legal Clearance

- ▶ Requirement to maintain data freshness
- ▶ Regional limitations
- ▶ Time limits or can be revoked at any time
- ▶ Indemnity clauses

Other Issues

- ▶ Privacy laws
 - ▶ GDPR
 - ▶ CCPA
 - ▶ Illinois
 - ▶ Limitations on use of certain types of data for certain purposes
- ▶ Copyright for individual pieces of the database
- ▶ Trademark

Making it easy for others to read a license



- ▶ Website
 - ▶ FAQ
 - ▶ Legal/License page
 - ▶ Link next to download button
- ▶ GitHub
 - ▶ README
 - ▶ LICENSE file
- ▶ Text file with data file download
- ▶ Crosslink everything!
- ▶ Link to license and include copy of the text
- ▶ Include exactly how you would like to be attributed and offer a suggested academic-format citation



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USING OPEN DATA

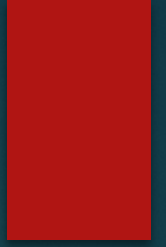
Finding License Info

- ▶ ASK:
 - ▶ Did the County/State/City/Agency produce this data?
 - ▶ Are there any restrictions on using this data?
 - ▶ I can share this data with others?
 - ▶ Can I use this data commercially?
 - ▶ Is this data in the public domain?
 - ▶ What is the license or terms of use for this data?

Finding License Info

- ▶ If you find a dataset but are confused about whether it carries any use restrictions or who it's from...
- ▶ DON'T ASK
 - ▶ Is this data open?
 - ▶ Is this data free?
 - ▶ Is this compatible with X,Y, and Z licenses?

Document Data Sources



- ▶ Include all information about the source
- ▶ Include all information about the license
 - ▶ Screenshot where the license is indicated or the license text if it's custom
- ▶ Maintain record of correspondence



Questions?



Appendix

References

- ▶ Open Data Institute - <https://theodi.org/>
- ▶ Open Knowledge Foundation Open Definition - <https://opendefinition.org/>
- ▶ OpenStreetMap Foundation - https://wiki.osmfoundation.org/wiki/Main_Page

References

- ▶ US Copyright Office Report on Legal Protection for Databases (August 1997) - <https://www.copyright.gov/reports/db4.pdf>
- ▶ *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 US 340, 344 (1991)
- ▶ European Commission Evaluation report on protection of databases - <https://ec.europa.eu/digital-single-market/en/protection-databases> (April 2018)